

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Policy for Licensing Domestic Satellite Earth)	IB Docket No. 02-30
Stations in the Bush Communities of Alaska)	RM No. 7246
)	

COMMENTS OF GENERAL COMMUNICATION, INC.

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SUMMARY

General Communication, Inc. ("GCI") fully supports the Commission's proposal to eliminate the restriction on competitive satellite earth stations in the Alaska Bush. This action will extend the benefits of the Commission's overall pro-competitive policy to Alaska consumers, without exception.

GCI has been providing telecommunications services to 50 Bush community sites since 1996, pursuant to a partial waiver of the Bush Earth Station Policy. GCI's experience in these communities is evidence of the significant public interest benefits that flow from facilities-based competition. GCI provides service using its Demand Assigned Multiple Access ("DAMA") satellite transmission system, which has provided much needed technological advances to the telecommunications services in these communities. As a result of this advanced technology and GCI's ability to compete using its own facilities, consumers living in these Alaska Bush communities now experience a wider range of important services, better service quality, more efficiency, and reduced rates.

There is no reason for the Commission to continue to restrict interstate facilities-based competition in this market. Recognizing the benefits that competition between GCI and Alascom has brought to these communities, the Regulatory Commission of Alaska has lifted the intrastate facilities restriction on competitive Bush facilities. Thus, the Commission's restriction is not only inconsistent with the state's policy, but also with the Commission's long standing policy favoring facilities-based competition in the provision of interstate telecommunications services. Congress and the Commission have been committed to bringing the benefits of competition to consumers in a vast array of telecommunications services markets, including local exchange service, wireless services and all other interstate long distance services. Accordingly,

GCI submits that the elimination of the interstate restriction, as demonstrated by its experiences, will allow consumers to reap the benefits of competition in both the intrastate and interstate MTS market, and promote facilities-based competition in the market.

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COMMENTS OF GENERAL COMMUNICATION, INC.

General Communication, Inc. ("GCI"), by its undersigned counsel, respectfully submits these comments in response to the Notice of Proposed Rulemaking ("NPRM") issued in the caption proceeding.¹ GCI fully supports the Commission's finding that "[a]llowing facilities-based competition in provision of interstate MTS in Bush communities would facilitate improvement in the quality of service available in Bush communities, promote more efficient delivery of service at lower cost, and reduce incentive for overcharging for use of these facilities."² The Commission's proposed elimination of the restriction on competitive satellite earth stations in the Alaska Bush is required consistent with its pro-competitive regulatory policies, as supported by GCI's own experience in providing competitive services in these communities pursuant to a limited waiver of the Commission's current policy.

¹ Policy for Licensing Domestic Satellite Earth Stations in the Bush Communities of Alaska, IB Docket No. 02-30, RM No. 7246, Notice of Proposed Rulemaking, FCC 02-37 (rel. Feb. 15, 2002) ("Bush Communities NPRM").

² Id. at ¶ 1.

I. BACKGROUND

GCI is an Alaska-based carrier that provides facilities-based long distance services within the State of Alaska and between Alaska and other points worldwide. GCI first began providing competitive interstate long distance services to Alaska in 1982, and in 1991, it entered the competitive intrastate long distance service market. GCI operates satellite earth stations throughout Alaska and in Seattle, Washington, and since its competitive entry into those markets where its entry has been permitted, it has introduced technological innovations that have improved the quality of service and, with a combination of improved efficiencies and simple competitive pressure, reduced rates to consumers.

In the same year that GCI commenced providing interstate long distance services, the Commission separately concluded:

Based on our experience, and an evaluation of the record in the light of the expertise the Commission has gained through the regulatory process, we warrant that an open entry policy in the Alaskan interstate MTS/WATS market will produce benefits that outweigh any likely detriments of such a policy and conclude that such entry is in the public interest.³

This conclusion was consistent with the Commission's view of the domestic interstate long distance market in general, that facilities-based and resale competition would produce substantial consumer benefits with no significant adverse effects.⁴ In fact, GCI's own competitive entry into the interstate long distance market itself exemplified the benefits of competition identified by the Commission — upon its initial entry into the market, GCI introduced digital satellite

³ MTS-WATS Market Structure Inquiry, Second Report and Order, 92 FCC 2d 787 (¶ 158) (1982) (emphasis added)(“MTS-WATS Second Report and Order”).

⁴ See MTS and WATS Market Structure, Report and Third Supplemental Notice of Inquiry and Proposed Rulemaking, 81 FCC 2d 177, 202 (¶ 104) (1980).

transmission and echo cancellation technologies that represented a vast improvement over the legacy analog systems in place at the time.

GCI subsequently turned its attention to the intrastate market and to serving smaller, rural Alaska communities using its own facilities. By that time, however, in a separate proceeding to consider competing applications filed by Alascom and the State of Alaska for earth stations in the Alaska Bush, the Commission had decided to license only one earth station in a Bush community, concluding that “duplicative” earth stations would not serve the public interest.⁵ The Commission did not reconcile this decision with its earlier finding that “an open entry policy in the Alaskan interstate MTS/WATS market will produce benefits that outweigh any likely detriments of such a policy.”⁶ In 1990, the Alaska Public Utilities Commission permitted intrastate competition in Alaska’s non-Bush areas, but retained its prior restriction in the Bush communities,⁷ so that competitive facilities-based entry was prohibited by both the interstate and intrastate jurisdictions.

While the continuing intrastate restriction may have “affected the potential feasibility of facilities-based *interstate* competition in the Bush,”⁸ GCI initially sought to have the Commission lift its interstate restriction, submitting its Petition for Rulemaking in January 1990.

⁵ Policies Governing the Ownership and Operation of Domestic Satellite Earth Stations in the Bush Communities in Alaska, Tentative Decision, 92 FCC 2d 736, 756 (¶ 59) & 739 n.12 (1982); Final Decision, 96 FCC 2d 522, 523 (¶ 3), 534 (¶ 24), 541 (¶ 40) (1984). Of course, at the time the applications were submitted, there were no competing carriers in Alaska, competition had not been officially sanctioned in the lower-48, and it appears that no party sought approval of both sets of pending applications.

⁶ MTS-WATS Second Report and Order at ¶ 158.

⁷ See Bush Communities NPRM at ¶ 12 (describing development of Alaska intrastate competitive regulatory policy).

⁸ Id. at ¶ 12 (emphasis in original).

GCI's description of the federal Alaska Bush policy over 12 years ago still holds today: "While competition has been authorized and promoted in every conceivable foreign and domestic telecommunications market under the Commission's jurisdiction, the Alaska Bush remains the sole example of a market where a monopoly carrier may still file a petition to protect itself from competition, relying upon existing FCC policy."⁹ In 1995, in the absence of any action on the petition over the intervening years, GCI sought a waiver of the policy, to serve 50 sites Bush community sites using Demand Assigned Multiple Access ("DAMA") satellite transmission system,¹⁰ and in doing so, provide much needed technological advances to the telecommunications services provided in these communities. The requested waiver was granted in 1996,¹¹ and GCI installed the DAMA system, which was specifically designed to meet the telecommunications needs of the Alaska Bush communities and other sparsely populated areas.

The Commission stated in the Bush Communities NPRM that "[a]ny commenter advocating retention of the Policy should demonstrate with clear and convincing evidence that allowing installation and operation of Bush earth stations for facilities-based interstate MTS competition would result in impairment of the quality of service, reduction of the availability of service, or increased cost burdens for ratepayers."¹² GCI submits that no commenter will be able to satisfy this burden because, in fact, the opposite is true as demonstrated by GCI's own

⁹ In the Matter of Policies Governing the Ownership and Operation of Domestic Satellite Earth Stations in the Bush Communities in Alaska, RM-7246, GCI Petition for Rulemaking at 3 (filed Jan. 10, 1990).

¹⁰ See Petition of General Communication, Inc. for a Partial Waiver of the Bush Earth Station Policy, File No. 122-SAT-WAIV-95 (filed June 23, 1995) ("GCI Petition for Waiver").

¹¹ Petition of General Communication, Inc. for a Partial Waiver of Bush Earth Station Policy, Memorandum Opinion and Order, 11 FCC Rcd 2535 (1996).

¹² Bush Communities NPRM at ¶ 17.

competitive services in the Alaska Bush. As described in detail below, in those Bush communities where GCI has been permitted to compete, it has demonstrated that competition can lead to better service, more efficiency and reduced rates. The Commission should lift the facilities restriction in its entirety and extend the benefits of its otherwise universal pro-competitive policies to Alaskan consumers without exception.

II. GCI HAS SUCCESSFULLY PROVIDED COMPETITIVE FACILITIES-BASED MTS SERVICE IN THE BUSH FOR MORE THAN SIX YEARS

Consistent with its interstate MTS open-entry policy, and its pro-competitive policies in other markets, the Commission has tentatively proposed to discontinue the restriction on competitive Bush earth station facilities, stating that “[a]llowing facilities-based competition in provision of interstate MTS in Bush communities would facilitate improvement in the quality of service available in Bush communities, promote more efficient delivery of service at lower cost, and reduce incentive for overcharging for use of these facilities.”¹³ GCI agrees. Though the initial restriction was based on a finding that “there did not appear to be any public interest benefits in the construction of duplicative MTS facilities in the Bush,”¹⁴ GCI’s competitive experience in the Alaska Bush communities demonstrates, to the contrary, that myriad public interest benefits inure where facilities-based competition is permitted, including better quality service, increased efficiency and reduced rates.

A. GCI’s 50-Site DAMA Project Has Brought Significant Consumer Benefits

Since GCI began its 50-Site Demonstration Project (“DAMA Project”) more than six years ago, customers have benefited from several noticeable improvements. One of the first

¹³ Id. at ¶ 1.

¹⁴ Policies Governing the Ownership and Operation of Domestic Satellite Earth Stations in the Bush Communities in Alaska, Tentative Decision, 92 FCC 2d at 739 n.12.

improvements came with GCI's implementation of the DAMA technology. DAMA is more efficient than the old Bush earth station technology used by Alascom because it allows channels to be used "on demand" rather than assigning a fixed channel to one community. Before DAMA, all channels were pinned to a certain community and could not be used by other communities, even when in use. Under the DAMA system, the channels are assigned "on demand," which reduces the amount of bandwidth necessary to place calls and therefore promotes efficiency.

The DAMA technology implemented by GCI also eliminates the need for a "double hop" configuration, which was still in place on Alascom's facilities when GCI initiated the DAMA Project. Double hop refers to a call that requires two satellite hops to complete. Under Alascom's pre-DAMA facilities, for example, all traffic originating or terminating in a Bush location was transmitted to a satellite, then transmitted to Anchorage, Fairbanks or Juneau for switching purposes — whether or not the call was destined for one of these markets — then transmitted a second time to satellite for transmission to the final destination. As a result, for a call to be sent to a location other than the city on which the station was homed, it was retransmitted through terrestrial or satellite facilities to its eventual destination, hence the double hop on the satellites. The substantial delay and frequent echo caused by the double hop degraded the quality of service, resulted in unreliable facsimile transmission and completely prevented data transmissions.¹⁵ GCI worked with major manufacturers of satellite technology to resolve

¹⁵ See, e.g., Bristol Bay Area Health Corporation Letter to Alaska Public Utilities Commission (May 13, 1997) ("Bristol Bay Letter") (attached hereto as EXHIBIT 1) ("Voice connections have been characterized by noise, echo, and long delays. It was not uncommon to repeat facsimile transmissions more than once to transfer a clean copy, if at all. Data communications between villages was plagued by line drop-outs and extremely slow connection speeds, and thus was not used.").

this issue through the development of a unique plan for the construction and operation of a bush network to deliver state of the art services at a reasonable cost. GCI's efforts to bring this technology from the testing phase to actual operations resulted in the 50-site project that successfully continues today.

B. GCI's Entry to the Market Resulted in Improved and New Services

When GCI began offering service as a result of its Project, its all-digital DAMA technology addressed problems that existed with Alascom's pre-DAMA facilities, including improved voice quality, reliable facsimile transmissions and the ability to send and receive data transmissions. In a recent proceeding by the Regulatory Commission of Alaska ("RCA"), the state Staff agreed that GCI's service has brought significant benefits to consumers. In a Staff report evaluating the 50-Site DAMA Project, the Staff stated that "quality of service and ability to transmit data has improved for customers served by the GCI DAMA project."¹⁶ In fact, the advantages of GCI's service to the 50 Bush communities extend beyond those communities actually served by GCI.

As a direct result of the Commission's authorization of GCI's DAMA Project and the ensuing competition, AT&T Alascom upgraded many of its earth station facilities to digital DAMA technology.¹⁷ Prior to GCI's market entry, Alascom had not changed its earth station

¹⁶ Revised Redacted Staff Report, *Request by General Communications, Inc., for Waiver of 3 AAC 52.355(a) and Approval of a 50-Site Demonstration Project*, Docket U-95-38, at 2 (Oct. 14, 1998) ("Revised Staff Report") (attached hereto as EXHIBIT 3). As part of GCI's waiver allowing facilities-based competition in the Bush, the Staff was required to file a report of its analysis of the 50-site data.

¹⁷ Consideration of the Reform of Intrastate Interexchange Telecommunications Market Structure and Regulations in Alaska, Order Lifting the Restriction on Construction of Interexchange Facilities in Rural Area, Order No. 6, Docket R-98-1, at 3 (Nov. 20, 2000) ("RCA Order") (attached hereto as EXHIBIT 4) ("[F]or whatever reason, AT&T Alascom became
(continued...)

technology in the Bush since it was installed in the 1970s, despite repeated urgings from the Commission to upgrade its facilities. In 1982, when the Commission was debating whether to require joint ownership of the Bush earth stations by the local exchange company serving the community and Alascom, the Commission noted that the State of Alaska, Bush residents and the local exchange carriers all expressed dissatisfaction with Alascom's facilities.¹⁸ The Commission also noted Alascom's failure to expand or upgrade its services in the Bush. Although Alascom has now installed DAMA in 54 of the 57 locations where GCI has DAMA (GCI also operates its regional hubs using DAMA technology), Alascom apparently had no incentive to invest until there was competition. Thus, simply by permitting GCI's entry into the market, customers received the benefits that are precisely intended with the advent of competition.

In addition, with GCI's facilities deployed in the bush communities, telemedicine could be offered in these communities for the first time. Medical service in Bush Alaska is provided by a medical practitioner in a Bush community in consultation with a doctor in a regional center. Before GCI's entry into the market, telecommunications systems would not support modern telemedicine applications that, for example, allowed a list of symptoms, medical history and images (*e.g.*, of skin problems, trauma, lacerations) to be sent to other doctors. Therefore, if the Bush doctor had any doubt about the condition of a patient, the patient had to be flown to Anchorage at great costs, sometimes in excess of \$20,000 per trip. Frequently, such

(..continued)

active in replacing its aging earth stations about the same time GCI filed to construct duplicate earth stations in rural Alaska."); Revised Staff Report at 4.

¹⁸ Policies Governing the Ownership of Operation of Domestic Satellite Earth Stations in the Bush Communities in Alaska, Tentative Decision, 92 FCC 2d at 745.

transportation was not medically necessary or was simply unaffordable. Using telemedicine capabilities made possible by high performance satellite technology, a medical practitioner in a Bush community can now relay valuable information to a doctor in a regional center so that the patient can be treated in the Bush community and transported only if medically necessary.¹⁹ Facilities deployed by GCI also allow for reliable Internet connections for schools and libraries. In fact, approximately 43 of the 50 communities that GCI is now serving receive telemedicine capability and/or Internet access for schools and libraries.

Along with improved service and service offerings, all customers in Alaska have experienced significantly decreased long-distance rates since GCI entered the market.²⁰ In addition to general rate reductions, many Bush customers now select alternatives to high "basic" rates. Before competition in the 50 sites, Alascom sales personnel had no incentive to encourage customers to select a lower cost calling plan.²¹ Once competition began, customers began

¹⁹ The Bristol Bay Area Health Corporation previously wrote that it had purchased a Telemedicine unit that could not be operated on Alascom's facilities. Once Bristol Bay began using GCI's DAMA facilities in December 1996, it could complete "a clean, fast, and successful image transfer." Bristol Bay stated that healthcare will be significantly improved as a result of the DAMA project. Bristol Bay Letter, Attachment 1. The Norton Sound Health Corporation also stated that its telemedicine technology operates effectively on the GCI facilities when it could only partially be operated on the Alascom facilities. Norton Sound Health Corporation Letter to the Alaska Public Utilities Commission (May 13, 1997) (attached hereto as EXHIBIT 2).

²⁰ See Revised Staff Report at 2 ("[C]ustomers have experienced lower bills as a result of a competitive choice and improved subscription to Alascom optional calling plans.")

²¹ Alascom has itself admitted that its rates have decreased as a result of customers selecting optional calling plans. *Id.* at 14 ("In its filing of March 31, 1998, Alascom indicated that individual customer revenues decreased on average due in part to customers selecting optional calling plans and moving from the higher basic rate schedule. This would suggest that prior to GCI's Demonstration Project, customers at the 56 sites were paying more for telecommunications services on average than their urban counterparts who regularly employ optional calling plans.").

selecting with greater frequency optional calling plans that save them money. The Commission should ensure that these benefits are available to all Alaskan consumers by lifting the restriction.

Although customers all over Alaska have received enormous benefits as a result of GCI's DAMA Project as originally installed, GCI has continued to make improvements to its system. The capabilities of GCI's system are driven by software changes implemented throughout the DAMA network, which means that GCI can readily meet customer demands for new and improved services by developing new software. GCI recently implemented a Channel Unit 2 ("CU2") upgrade. CU2 is the second version of the DAMA Channel Unit developed and produced by GCI's vendor partner in the DAMA program, Viasat (formerly Scientific Atlanta). CU2s have been produced with the ability to provide data at speeds of 160 kilobits per second, and they are considerably more reliable. High Speed Channel Units are also in development, and are being deployed in situations where GCI has a data-only demand. These High Speed CUs operate at 2 megabits per second. With the lifting of the restriction on facilities-based competition in the Bush, GCI would be able to secure standard authorizations for continued operations of these improved facilities, on regulatory par with Alascom.

C. The Regulatory Commission of Alaska Has Recognized the Benefits of Competitive Service by Eliminating the State Restriction on Competitive Bush Facilities

The RCA has separately recognized the benefits of competition between GCI and Alascom and the continued benefits that would occur by eliminating the state restriction on competitive Bush facilities. Following an extensive review of the intrastate market, the RCA found that lifting the facilities restriction would "lead to improved customer choice, lower rates,

and possibly improvements in technology.”²² Though the RCA determined that restrictions on construction were permitted when “duplicative” facilities were not in the public interest,²³ it concluded that the public interest would be better served by the elimination of the facilities restriction, which in turn “may ultimately reduce costs of service and increase infrastructure development in rural Alaska, leading to public benefit.”²⁴ The RCA also decided that lifting the facilities restriction would not lead to ruinous competition or seriously harm AT&T Alascom’s financial viability.²⁵ As such, the RCA determined that consumers would be better off if market forces were allowed to operate by lifting the facilities restriction ban. It is certainly time to extend these same consumer benefits to interstate services.

III. THE FEDERAL BUSH EARTH STATION RESTRICTION IS IRRECONCILABLY INCONSISTENT WITH THE COMMISSION’S PRO-COMPETITIVE POLICIES

The Commission noted in the NPRM that the bush restriction is “a long-standing exception to the Commission’s general policy favoring open entry for facilities-based competition in provision of interstate telecommunications services.”²⁶ There is no basis to

²² RCA Order at 9. The Staff reached the same conclusion in its reports to the RCA, and therefore recommended the repeal of 3 AAC 52.355. Staff Memorandum, Consideration of the Reform of Intrastate Interexchange Telecommunications Market Structure and Regulations in Alaska, Docket R-98-1 (Aug. 4, 2000).

²³ RCA Order at 8. Alaska Statutes 42.05.810(c) (“Except as provided in (b) of this section [grandfather clause allowing AT&T Alascom facilities], the commission may prohibit installation of facilities for origination or termination of long distance service in a given location only if it determines that installation of the facilities in that location is not in the public interest.”).

²⁴ Id. The RCA also stated that resellers may benefit to the extent that they have multiple sets of facilities from which to choose. Id. at 9.

²⁵ Id. at 9.

²⁶ Bush Communities NPRM at ¶ 1.

continue that exception, which was questionable in the first place, and GCI strongly supports the Commission's effort now to harmonize its Alaska Bush policy with the pro-competitive policy that applies in every other market. Since the passage of the Telecommunications Act of 1996, Congress and the Commission have consistently recognized that the creation of competitive markets is a fundamental goal of the Act and have shaped communications policy around this principle.²⁷ Congress and the Commission also have noted, in myriad contexts, that competitive markets bring important benefits to consumers. Accordingly, the Commission should eliminate this anomaly in its open-entry policy for interstate MTS and, in tandem with the recent lifting of the state restriction, allow consumers to receive the benefits of a competitive intrastate and interstate MTS market.

In light of the widely recognized benefits of competition to consumers, the Bush restriction must be eliminated. Both the Commission and Congress have spoken of the advances in technology, broader availability, increased range of services, and lower prices that competition brings to consumers. Indeed, this is precisely the policy adopted generally in the interstate MTS market almost 20 years ago when the Commission concluded that "competition and the elimination of barriers to entry here will result in the provision of telecommunications service at the lowest possible cost; in the reduction or elimination of waste; in making carriers more responsive to the needs of consumers; and in making carriers respond more rapidly and efficiently to technological changes and innovation."²⁸

²⁷ See, e.g., Commissioner Kevin J. Martin, National Summit on Broadband Deployment, *Framework for Broadband Deployment*, at 2 (Oct. 26, 2001) ("The goal of the Telecommunications Act was to establish a competitive and deregulated environment. But to get to true deregulation, we need facilities-based competition.").

²⁸ MTS and WATS Market Structure, Report and Third Supplemental Notice of Inquiry and Proposed Rulemaking, 81 FCC 2d at 202 (¶ 105).

This commitment to competition in all markets has only become more firmly entrenched and expanded since that time. The most recent and obvious example is the pro-competitive policies adopted for the local markets in the 1996 Act. As the Commission concluded in the Local Competition Order, “competition in local exchange and exchange access markets is desirable . . . because of the social and economic benefits competition will bring to consumers.”²⁹ Chairman Powell has plainly stated that a competitive market is better for consumers, bringing “more cutting edge products, at lower prices . . . [R]ules that constrain markets can, in fact, deny or delay benefits to the consuming public.”³⁰ Indeed, in a broad range of issues before Congress and the Commission, increasing competition and serving the public interest are the guiding principles of the proceeding. From proceedings to implement the Telecommunications Act of 1996, to review of existing regulations as part of the biennial review process, to consideration of proposed mergers, the touchstone has been facilitating competition for the benefit of consumers.³¹

²⁹ Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, Report and Order, 11 FCC Rcd 15499, 15506 (¶ 4) (1996) (subsequent case history omitted).

³⁰ Chairman Michael K. Powell, Remarks Before the Federal Communications Bar Association, Washington, D.C., *Consumer Policy in Competitive Markets*, at 2 (June 21, 2001). Commissioner Abernathy similarly concurs with “the fundamental notion that competitive markets function better than regulation to maximize the public welfare. Markets encourage innovation, punish and reward providers, increase consumer choices and the availability of information, and respond far more quickly to changed circumstances than is possible through regulation.” Commissioner Kathleen Q. Abernathy, PLI Conference Remarks, *My View of the FCC’s Public Interest Obligation*, at 2 (Dec. 13, 2001).

³¹ See, e.g., Hearing of the Antitrust, Competition and Business and Consumer Rights Subcommittee of the Senate Judiciary Committee, *Dominance in the Sky: Cable Competition and the EchoStar – DIRECTV Merger*, statement of Sen. Dewine (R-OH) (Mar. 6, 2002) (identifying the goal of the hearing is to “try to figure out what is the best outcome for consumers and for competition”). See also Application of GTE Corporation and Bell Atlantic Corporation for Consent to Transfer Control of Domestic and International Sections 214 and 310

(continued...)

In this case, eliminating the Bush restriction will permit competition to the benefit of consumers of the type that resulted from GCI's DAMA Project — which itself provides the best example of why competition should be free to develop. Moreover, only if the federal restriction is eliminated will the recent elimination of the state restriction be given full effect. As the Commission is aware, the RCA has repealed its prohibition on the use of separate facilities in Bush communities to provide intrastate MTS,³² and this change in policy invites facilities-based competition with the incumbent provider, Alascom, throughout the state. The Commission's existing Bush restriction policy, however, bars competitive carriers' ability to compete on the same basis with Alascom in providing interstate services. In reviewing carriers' requests for the Commission to preempt state regulations under Section 253 of the Act, the Commission has expressed its concern that "inconsistent levels of regulation of telecommunications services and service providers may deter or discourage competition."³³ The Bush Policy is precisely such a regulation — it is inconsistent with the state policy and is an entry barrier to facilities-based

(..continued)

Authorizations and Application to Transfer Control of a Submarine Cable Landing License, Memorandum Opinion and Order, 15 FCC Rcd 14032, 14036 (¶ 4) (2000) (adopting conditions to transfer to "enhance competition in the local exchange and exchange access markets" and "strengthen the merged firm's incentives to expand competition outside of its territories." See also Washington Telecom Newswire, *Stearns Introduces Bill to Remove Wireless Spectrum Cap* (July 17, 2001) (quoting Congressman Stearns (R-Fla.) assessment that the existing regulation "limit[s] competition by denying wireless providers access to open markets, thereby denying consumers the benefits that arise from additional competition, such as lower prices and innovative services"). See also Policy and Rules Concerning the Interstate, Interexchange Marketplace, Order, 15 FCC Rcd 22321, 22323 (¶ 4) (2000) (adopting a policy of detariffing after concluding that "tariffing both prevents the operation of competitive markets and ultimately is harmful to the interests of consumers of such services").

³² See generally RCA Order.

³³ TCI Cablevision of Oakland County, Inc., Petition for Declaratory Ruling, Preemption and Other Relief Pursuant to 47 U.S.C. §§ 541, 544(e), and 253, Memorandum Opinion and Order, 12 FCC Rcd 21396, 21399 (¶ 8) (1997).

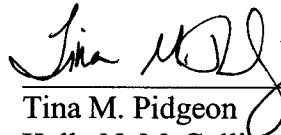
competition. The Commission has determined that an explicit goal of the Act is to open markets to competition, and thus the Act requires not only removal of “express restrictions on entry, but also restrictions that indirectly produce that result.”³⁴ Accordingly, the Commission should remove this restriction that is an unjustified exception to the Commission’s open-entry policy for interstate MTS and may also substantially impede the permitted facilities-based competition in intrastate market.

³⁴ Public Utility Commission of Texas, The Competition Policy Institute, IntelCom Group (USA), Inc. and ICG Telecom Group, Inc., AT&T Corp., MCI Telecommunications Corp., and MFS Communications Company, Inc., Teleport Communications Group, Inc., City of Abilene, Texas, Petitions for Declaratory Ruling and/or Preemption of Certain Provisions of the Texas Public Utility Regulatory Act of 1995, Memorandum Opinion and Order, 13 FCC Rcd 3460, 3480 (¶ 41) (1997); see also Testimony of Chairman Michael K. Powell Before the Subcommittee on Commerce, Justice, State and the Judiciary of the Committee on Appropriations United States Senate on the Federal Communications Commission’s Fiscal Year 2003 Budget Estimates (Mar. 7, 2002) (“Competition is a fundamental and guiding statutory principle under the Telecommunications Act of 1996”).

IV. CONCLUSION

Based on the foregoing, the Commission should eliminate the federal restriction on MTS facilities-based competition in the Alaska Bush to allow consumers in these communities to gain the full benefits of competition in both intrastate and interstate MTS services,

Respectfully submitted,



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Dated: July 1, 2002

EXHIBIT 1

BRISTOL BAY AREA HEALTH CORPORATION

Kanakanak Hospital
P.O. Box 130 • Dillingham, Alaska 99576
(907) 842-5201

Alaska Public Utilities Commission
1016 West Sixth Avenue
Anchorage, Alaska 99501

May 13, 1997

Dear Commissioners:

I am writing to provide information on the experience that the Bristol Bay Area Health Corporation (BBAHC) has had with the new long distance service provided by GCI.

BBAHC is a private non-profit tribal healthcare organization that serves the Bristol Bay region. BBAHC operates Kanakanak Hospital in Dillingham and village health clinics in most of the 32 tribal villages in its service area. Bristol Bay is completely rural, encompassing a 46,000 square mile area roughly the size of the state of Ohio, and is not connected to any major road system. Most of the villages themselves are truly isolated, and not connected by road to other villages.

Up until recently, telecommunications has always been a problem in Bristol Bay. The quality of communications varied from village to village, but essentially digressed from bad to worse. Voice connections have been characterized by noise, echo, and long delays. It was not uncommon to repeat facsimile transmissions more than once to transfer a clean copy, if at all. Data communications between villages was plagued by line drop-outs and extremely slow connection speeds, and thus was not used.

Because facsimile could get through some of the time, BBAHC invested in a Telemedicine unit that claimed to work wherever a facsimile machine would work. The objective was to transfer still images from the Community Health Aide in New Stuyahok to the physician at Kanakanak Hospital for faster and more accurate diagnosis and treatment. Some examples of the types of images that could be transferred were images of skin problems, trauma, lacerations, eye, teeth, gums, ear, nose, and throat.

The Telemedicine unit was installed in New Stuyahok in the Summer of 1996, but could not be used. The line connections kept dropping out during the image transfers. It was not until December of 1996 when we used GCI's new DAMA circuits that we could get a clean, fast, and successful image transfer. The Telemedicine unit is now being used routinely, and has had a positive effect on patient care in New Stuyahok. More units are now being planned for other villages that have the DAMA circuits installed.

Aleknagik • Chignik Bay • Chignik Lagoon • Chignik Lake • Clark's Point • Dillingham • Egegik • Ekuk • Ekrok • Goodnews Bay
Hiamma • Igigig • Ivotof Bay • King Salmon • Kotchanok • Koliganek • Levick • Manokotak • Naknek •
Nondalton • Pedro Bay • Perryville • Pilot Point • Platinium • Port Heiden • Portage Creek • South Naknek • T

Bristol Bay Area Health Corporation is a Tribal Organization of the Alaska Native Villages of the Bri

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DAMA has also had a positive effect on facsimile transmissions. Villages that have been problematic in getting facsimiles through are now having a much easier time using the DAMA circuits. Many can now get the facsimiles through on the first try.

GCI is providing us with a service that was not previously available. Our Telemedicine unit would not work without DAMA. Now that data communications is possible, we are planning to install computers in the village clinics to allow health aides to access health records at Kanakanak Hospital. In addition, things like Email and Internet access for the village health aides are now within the realm of possibility. Overall, healthcare in Bristol Bay will be significantly improved by the presence of DAMA in the region.

Sincerely,



Larry Y. Youshitin
Chief Information Officer

EXHIBIT 2



NORTON SOUND HEALTH CORPORATION

P.O. BOX 966
NOME, ALASKA 99762
(907) 443-3311

May 13, 1997

Alaska Public Utilities Commission
1016 West Sixth Avenue
Anchorage, Alaska 99501

Dear Commissioners:

I am writing to provide information on the experience that Norton Sound Health Corporation (NSHC) has had with the new long distance service provided by GCI.

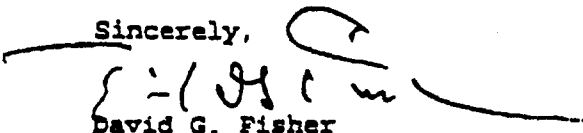
NSHC provides health services to 15 villages throughout the Norton Sound area. Our Regional Health Center (our major facility) is in Nome, and we have clinics in the other communities, some of them several hundred miles from Nome. In some of the communities we now have long distance phone service available from GCI.

We installed our Regional Health Center's main frame system (Meditech) before any service was available to us from GCI. This system runs on a platform in Nome and is accessed directly by modem dial-up from PC's in the villages running an emulation/communication program. At that time, only the e-mail part of Meditech worked, and rather poorly at that. The more important aspects of the system - medical information - ran so slowly and had so many disconnections as to make the system unusable. However, the entire system works very well with GCI's facilities, using a modem dial-up as before.

Last week we had a training conference in Nome for personnel from each of our Village Clinics, and it was very evident from the discussions that the ability to use the system is dependent on whether or not GCI's facilities are available in a particular community. In fact, there was a good deal of dissatisfaction among those persons who cannot use the system because they do not have service available from GCI.

In a very real sense, GCI is providing us a service that was not previously available. We are using telemedicine in a way that we could not use it before, we are providing an instant core of medical information available to all clinicians in Nome and we are making available an on line real time statistical and demographic database for IHS and other reportable agencies. In turn, this has enabled us to provide better health care to our clients, and it has saved money by improving the efficiencies of our operations.

Sincerely,


David G. Fisher
Manager, Information Systems